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IN THE

**SUPREME COURT OF THE UNITED STATES**

**OCTOBER TERM, 1945**

**No. 501**

**H. S. GIBBS, COASTAL PROPERTIES, ET AL.,**

*Petitioners,*

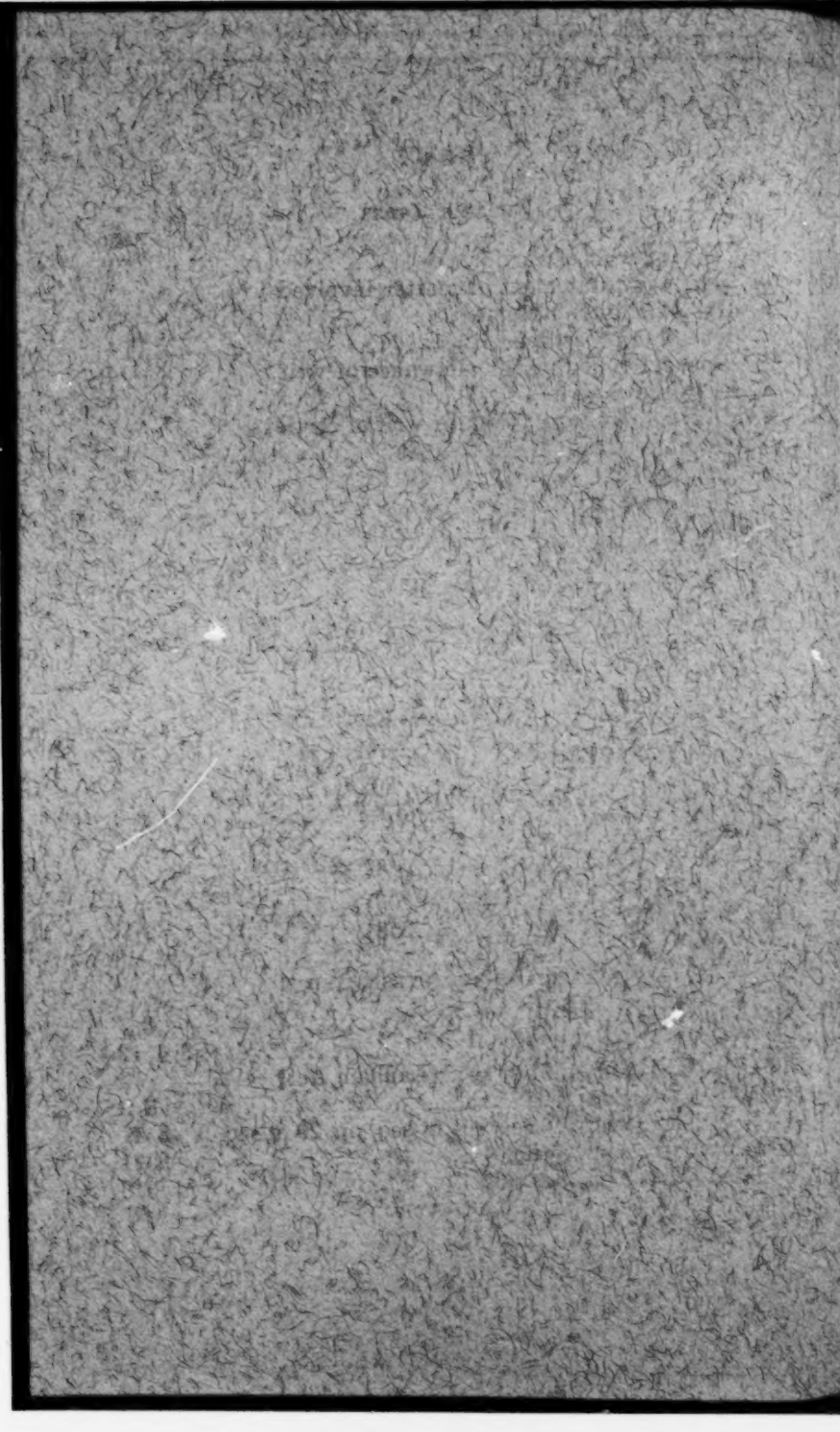
*vs.*

**UNITED STATES OF AMERICA**

**PETITION FOR WRIT OF CERTIORARI TO THE  
UNITED STATES CIRCUIT COURT OF APPEALS  
FOR THE FOURTH CIRCUIT AND BRIEF IN SUP-  
PORT OF PETITION.**

**R. E. WHITEHURST,**  
*New Bern, N. C.;*

**J. C. B. EHRRINGHAUS,**  
*Raleigh, N. C.;*  
*Counsel for Petitioners.*



# INDEX

## SUBJECT INDEX.

	Page
Petition for writ of certiorari .....	1
Summary statement of matter involved .....	1
Jurisdictional statement .....	3
Question presented .....	4
Reasons relied on for allowance of writ .....	4
Prayer for writ .....	5
Brief in support of petition for writ of certiorari .....	7
Opinion of courts below .....	7
Jurisdiction .....	7
Statement of the case .....	8
Specification of errors .....	8
Argument .....	9
Summary of argument .....	9
Point A .....	9
Point B .....	11
Point C .....	12

## TABLE OF CASES CITED

<i>Miles v. Ill. Central R. R. Co.</i> , 315 U. S. 698 .....	5, 8
<i>Worcester Co. Trust Co. v. Riley</i> , 302 U. S. 292 .....	5, 8
<i>O'Donnell v. Dredge and Dock Co.</i> , 318 U. S. 36 .....	5, 8

## TABLE OF EXECUTIVE ORDERS CITED

Ex. O. 9070 (50 U. S. C. A. App. 206) .....	2
Ex. O. 9150 (50 U. S. C. A. App. 256) .....	9

## TABLE OF STATUTES CITED

28 U. S. C. Sec. 347 (a) .....	3, 7
42 U. S. C. A. Sec. 1522 .....	3, 4, 12
42 U. S. C. A. Sec. 1521 et seq. (Lanham Act) .....	2
42 U. S. C. A. Sec. 1524 .....	8, 9
44 U. S. C. A. (Supp.) Sec. 301 et seq. pp. 29 et seq. ..	8, 11
50 U. S. C. A. App. Sec. 601 .....	8, 11
50 U. S. C. A. App. Sec. 632 .....	3, 8



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PORT THEREOF.**

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*To the Honorable Harlan Fiske Stone, Chief Justice of the  
United States, and the Associate Justices of the Supreme  
Court of the United States:*

Your Petitioners respectfully show:

**Summary of the Matter Involved**

This is an action seeking both legal and equitable relief (Complaint R. 3). It was brought in the District Court by the Respondent herein, against the Petitioners herein, asking that the deed (Ex. B, R. 10) from the United States to Petitioner, H. S. Gibbs, dated May 18, 1943, and duly

recorded in the Public Registry of Onslow County, as well as subsequently executed deeds from said Gibbs to Petitioner, H. Emmett Powell (Ex. C, R. 15, dated June 7, 1943 and duly recorded) and from said Gibbs to Petitioner, Coastal Properties, Inc. (Ex. D, R. 16, dated June 7, 1943, and duly recorded) all covering an off-base area set apart for commercial facilities, be declared null and void and a cloud upon Respondent's title, that Petitioners be enjoined from asserting any right, title, interest or claim thereunder, and that Respondent be declared the "owner and solely entitled to the possession" of said lands. Such was the decree of the District Court.

The basis of Respondent's claims for relief was that the deed from the United States to Gibbs (Ex. B, R. 10), executed by the Commissioner of the Federal Public Housing Authority, was made subsequent to the date of a letter (Ex. A, R. 9) dated July 16, 1942, transferring (effective August 1, 1942) "to the jurisdiction of the Navy Department", Defense Housing Project No. N. C. 31032 known as New River Defense Housing, Jacksonville, North Carolina, made purportedly under the "provisions of Sec. 4 of Public Law 409, 77th Congress, 2nd Session," amending the Lanham Act (42 U. S. C. A., Sec. 1521 et seq.) under which the area conveyed (and much more) was originally condemned by the United States. Reference was also made by said letter to Ex. Order 9070 of February 24, 1942 (50 U. S. C. A. App. 206).

*The letter of transfer was not recorded in the Federal Registry or elsewhere.*

There was motion by Respondent (R. 24) for summary judgment under Rule 56 upon the ground that "no genuine issue as to any material fact has been raised by the pleadings."

There was like motion by Petitioners (R. 26) and reference to their answer (R. 21) raising the question of juris-

diction in the District Court (a) because of the provision of 42 U. S. C. A. Sec. 1522 requiring actions "for the recovery of possession" to be brought in the State Courts and making the laws of the States applicable and (b) because the Complaint "states no cause of action for relief which can be granted in this cause."

The District Court declined Petitioners' motion and granted Respondent's motion and adjudged accordingly, including an adjudication (R. 38) that the United States "is the owner and solely entitled to the possession" of the disputed area. This judgment was approved by the Circuit Court of Appeals.

The area in controversy had, in the condemnation, been set apart for "commercial facilities" and deed to Respondent was made for these purposes only (R. 10).

The date of the judgment of the Circuit Court here sought to be reviewed is July 13, 1945.

The opinion of the Circuit Court of Appeals was dated July 13, 1945, and is reported in 150 F. 2d 504.

### **Jurisdictional Statement**

It is contended that the Supreme Court has jurisdiction to review the judgment here in question because of the provision of 28 U. S. C., Sec. 347 (a).

The case involves,

(1) The validity of the Government's suggestion that the unrecorded letter (Ex. A, R. 9) transferring "the whole of Defense Project No. N. C. 31032 known as New River Defense Housing" to the jurisdiction of the Navy Department, supersedes and invalidates the provisions of Ex. Order 9150 (50 U. S. C. A., App. page 256) made pursuant to 50 U. S. C. A. App. Sec. 632 and duly recorded in the Federal Register and invalidates also deeds made pursuant

thereto and in accord with the oft-declared Congressional policy that commercial facilities should be developed by private enterprise, a policy reiterated in the very first sentence of the very statute from which authority for the transfer is allegedly derived.

(2) The propriety of the Summary Judgment for Respondent in view of

(a) the fact that the sale to Petitioner Gibbs was initiated by the Marine Commandant (a service branch of the Navy) and carried through—all presumably with the knowledge, consent and approval of the Navy Department,

(b) the transfer to the Navy was never recorded in the Federal Registry,

(c) the attack upon Respondents deed was (so far as this commercial area is concerned) in direct violation of a conveyance made pursuant to the Congressionally declared policy, and

(d) the provisions of Ex. Order 9150 still subsist as controlling transfers of title and there is no other branch of the Government authorized to make a deed and certainly there is no authority to make a deed conferred on the Navy Department.

(3) The jurisdiction of the District Court in view of the provisions of 42 U. S. C. A. Sec. 1522 requiring actions for the recovery of possession of area condemned under the Lanham Act to be brought in the State Courts and making the laws of the States applicable thereto.

### **Reasons Relied On for Allowance of the Writ**

The decision here challenged decides three important questions of Federal law which have not been but, in the



public interest, should be settled by the Supreme Court, since many titles are or may be involved.

*Miles v. Illinois Central RR. Co.*, 315 U. S. 698 (86 L. Ed. 1129, 62 Sup. Ct. 827);

L. Ed. 1129) (62 Sup. Ct. 827), Rehearing denied 316 U. S. 708 (62 Sup. Ct. 1037.;

*Worcester Co. Trust Co. v. Riley*, 302 U. S. 292 (82 L. Ed. 268, 58 Sup. Ct. 185);

*O'Donnell v. Great Lakes Dredge & Dock Co.*, 318 U. S. 36.

The questions presented may be summarized thus:

(a) Where lies the authority to execute deeds in behalf of the United States for areas condemned under the Lanham Act and dedicated to Commercial uses?

(b) Does a transfer of jurisdiction by letter unrecorded in the Federal Registry, supersede Executive Order 9150 and authorize such deeds by the Navy Department or does the power to make a deed for such areas remain still, under Executive Order 9150, in the Federal Public Housing Authority through its Commissioner? All deeds for such areas must accord with the decision of the Supreme Court on these questions and the validity of many deeds and enterprises initiated pursuant thereto will be controlled thereby.

(c) Do the States or the Federal District Courts have jurisdiction in such controversies?

WHEREFORE, your Petitioners pray that a writ of certiorari issue under the seal of this Court, directed to the Circuit Court of Appeals for the Fourth Circuit, commanding said Court to certify and send to this Court a full and complete transcript of the record and of the proceedings of the said Circuit Court of Appeals for the Fourth Circuit

had in the case number and entitled on its docket, No. 5371, H. S. Gibbs and wife, Lucille L. Gibbs, H. Emmett Powell and wife, Mildred Fleming Powell, and Coastal Properties, Inc., Appellants, vs. United States of America, Appellee, to the end that this cause may be reviewed and determined by this Court as provided for by the statute of the United States; and that the judgment herein of said United States Circuit Court of Appeals, Fourth Circuit, be reversed by the Court, and for such further relief as to this Court may seem proper.

Dated this 11th day of October, 1945.

R. E. WHITEHURST,  
*New Bern, N. C.;*  
J. C. B. EHRLINGHAUS,  
*Raleigh, N. C.;*  
*Counsel for Petitioners.*

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UNITED STATES OF AMERICA

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**Opinion of Court Below**

The opinion in the Circuit Court of Appeals, Fourth Circuit (R. p. 42) was delivered July 13, 1945, and is reported in 150 F. (2d), 504.

**Jurisdiction**

1. The date of decision to be reviewed was July 13, 1945.
2. The Statutory provision which is believed to sustain the jurisdiction of this Court is 28 U. S. C., Sec. 347 (a).
3. As will appear by reference to the Complaint (R. 25) the Respondent attacks the validity of a deed, and subsequent conveyances, made in behalf of the United States by the Federal Public Housing Authority through the Federal Public Housing Commissioner under the authority of Executive Order 9150 (50 U. S. C. A. App. page 256) issued April 28, 1942, recorded 7 F. R. 3217, all by virtue of and

pursuant to the authority vested in the President by Title II of the Second War Powers Act 1942, approved March 27, 1942 (Public Law 507, 77th Congress). See U. S. C. A. 50 App. Sec. 632.

The Respondent contends that the authority to make such deed was invalidated by a letter dated July 16, 1942, from the Administrator of National Housing Agency to the Secretary of Navy (Ex. A, R. 9) written pursuant to Sec. 4 Public Law 409, 77th Congress, Second Session and (Title 42 U. S. C. A., Sec. 1524) by virtue of Executive Order 9070 of February 24, 1942 (50 U. S. C. A. App. page 206), but not recorded in Federal Register. (See 50 U. S. C. A. App. Sec. 601, page 203 and also Federal Register Act of 1935, Sections 301 to 310 and 311 to 314. See Title II, 44 U. S. C. A., Supplement p. 29 et seq.)

4. Cases believed to sustain the said jurisdiction are as follows:

*Miles v. Ill. Central RR. Co.*, 315 U. S. 698;

*Worcester Co. Trust Co. v. Riley*, 302 U. S. 292;

*O'Donnell v. Great Lakes Dredge and Dock Co.*, 318 U. S. 36.

### **Statement of the Case**

The case has already been stated in the preceeding Petition for Writ of Certiorari (page 1) and the statement thus made is hereby adopted and made a part of this brief.

### **Specifications of Errors**

A. The Court erred in holding that the unregistered letter (Ex. A, R. 9) abrogated the provisions of Executive Order 9150 which was issued under 50 U. S. C. A. App. Section 601 and that deed made to Petitioners thereunder was invalid.

B. The Court erred in granting Respondents motion for Summary judgment.

C. The Court erred in sustaining the jurisdiction of the District Court.

## **ARGUMENT**

### **Summary of the Argument**

#### **POINT A**

At the threshold it would seem proper to quote in full Executive Order 9150 (50 U. S. C. A. App. 256) under and in accord with which the deed in controversy was executed. It follows:

"By virtue of and pursuant to the authority vested in me by Title II of the Second War Powers Act, 1942, approved March 27, 1942 (Public Law, 507, 77th Congress), (50 App. Sec. 632) the Federal Public Housing Commissioner of the National Housing Agency, or any officer of the Federal Public Housing Authority acting in the absence or disability of the Commissioner, is hereby authorized to exercise the authority contained in the said Title II of the Second War Powers Act, 1942 (50 App. Sec. 632), to acquire, use, and dispose of any real property, temporary use thereof, or other interest therein, together with any personal property located thereon, or used therewith, that shall be deemed necessary for war purposes; Provided, however, that the provisions of this order shall be applicable only to property in connection with defense housing and temporary shelter."

In brief summary on this point it may be further observed:

1. The letter (Ex. A, R. 9) was written ostensibly under the authority of 42 U. S. C. A. App. Sec. 1524. This section in full follows:

*"It is hereby declared to be the policy of this subchapter to further the national defense by providing*

*housing in those areas where it cannot otherwise be provided by private enterprise when needed, and that such housing may be sold and disposed of as expeditiously as possible: Provided, That in disposing of said housing consideration shall be given to its full market value and said housing or any part thereof shall not, unless specifically authorized by Congress, be conveyed to any public or private agency organized for slum clearance or to provide subsidized housing for persons of low income: Provided further, That the Administrator may, in his discretion, upon the request of the Secretaries of War or Navy transfer to the jurisdiction of the War or Navy Departments such housing constructed under the provisions of subchapters II-IV of this chapter as may be considered to be permanently useful to the Army or Navy. Oct. 14, 1940, c. 862, Title I, sec. 4, as added Jan. 21, 1942, c. 14, Sec. 4, 56 Stat. 12."*

2. The above quoted Section authorizes the "transfer of jurisdiction" but makes no pretense at providing power in the Navy to sell, deed or otherwise dispose of when the advisability to sell is properly decided or where, in keeping with public policy of developing by private (or other than Government) funds, a sale is required. There is no interference with the power of disposition and sale expressly conferred by Executive Order 9150, issued pursuant to 50 U. S. C. A. App. Sec. 601, and that such disposition under 9150 is contemplated is manifested by the first sentence in said section above quoted and underscored by us.

3. Insofar as the letter may appear to authorize such a disposition of the area (dedicated admittedly to commercial facilities) it would violate the policy declared by Congress in the first sentence of the very section (1524) pointed to as the basis of such authorization, which policy, so declared in the same section, operates by necessary implication as a limitation upon any power of conveyance therein authorized.

4. The letter does not necessarily conflict with the provisions of Executive Order 9150 issued under Section 601 and leaves the Federal Public Housing Authority (through the Public Housing Commissioner) as still the only Government agency with authority to convey title to this area in a proper case.

5. The Navy *still* has no statutory authority to make a deed. Wherever it is desired to so do (and the Lanham Act contemplates return of all areas so condemned to private ownership "as expeditiously as possible" (sec. 1524)) it still must call in the Housing Commissioner to make the deed. He is still the only one authorized to make a deed for this area.

6. The Public Register Act of 1935 laws prevents the letter of transfer from having validity.

44 U. S. C. A., Sec. 301 et seq. (Supp. p. 29 et seq.);

50 U. S. C. A., App. Sec. 601, page 203.

## POINT B

1. On the record in this case, the Navy, having no funds to provide these commercial facilities on this "off base" site or having none certainly at the time of transfer, if it is to have such facilities, must call upon private enterprise to provide them, and this it did by instituting, through the local commanding (marine) officer, the effort to enlist private enterprise which resulted in the sale here attacked (R. 29, 30, 31 and 32, Exhibits 1, 2 and 3). Indeed, so far as we can ascertain, even now the Navy has no such appropriation.

2. If such *request by the Navy*, resulting in the conveyance here attacked, is not admitted on the record *is is a fact which should be determined or negatived by jury finding before final judgment in favor of the Government is*

*proper.* It indicated a recession by the Navy, *pro tanto*, from its request for transfer of jurisdiction and a voluntary relinquishment thereof.

So, pending such determination, *summary judgment for Government certainly was not proper.*

### POINT C

On this point it is sufficient to cite 42 U. S. C. A., Sec. 1522, proviso, reading as follows:

“That any proceedings for the recovery of possession of any property or project developed or constructed under this subchapter shall be brought by the Administrator in the courts of the States having jurisdiction of such causes and the laws of the States shall be applicable thereto.”

### Conclusion

For the above reasons, briefly and concisely stated, Petitioners respectfully submit that this case is one calling for the exercise by this Court of its supervisory powers, by granting a Writ of Certiorari and thereafter reviewing and reversing said decision.

R. E. WHITEHURST,

*New Bern, N. C.;*

J. C. B. EHRLINGHAUS,

*Raleigh, N. C.;*

*Counsel for Petitioners.*





## INDEX

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	Page
Opinions below.....	1
Jurisdiction.....	1
Question presented.....	2
Statute involved.....	2
Statement.....	2
Argument.....	6
Conclusion.....	9

### CITATIONS

#### Cases:

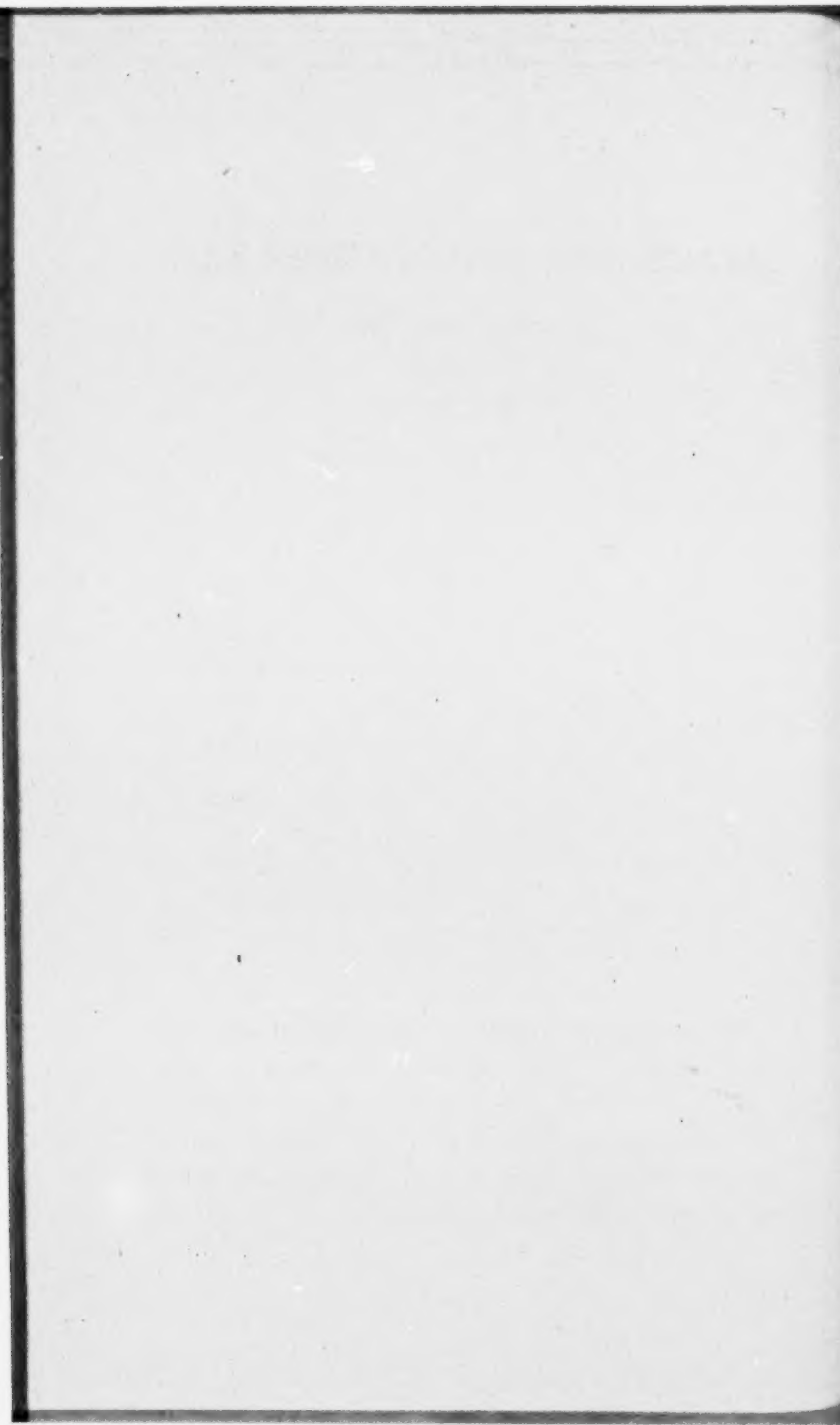
<i>John L. Roper Lumber Company v. United States</i> , 150 F. 2d 329.....	9
<i>United States v. Miller</i> , 317 U. S. 369.....	9

#### Statutes:

Act of June 28, 1940, 54 Stat. 681, secs. 201-203, 205, 42 U. S. C., secs. 1501-1503, 1505.....	7
Act of January 21, 1942, 56 Stat. 11, sec. 4, 42 U. S. C., Supp. IV, sec. 1524.....	2, 6
Act of April 10, 1942, 56 Stat. 212, sec. 4, 42 U. S. C., Supp. IV, sec. 1564.....	2

#### Miscellaneous:

87 Cong. Rec. 10029.....	6
Executive Order No. 9070 (February 24, 1942).....	3
S. Rep. No. 918, 77th Cong., 1st sess., p. 4.....	6



# In the Supreme Court of the United States

OCTOBER TERM, 1945

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No. 501

H. S. GIBBS, COASTAL PROPERTIES, ET AL.,  
PETITIONERS

v.

THE UNITED STATES OF AMERICA

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*ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED  
STATES CIRCUIT COURT OF APPEALS FOR THE FOURTH  
CIRCUIT*

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**BRIEF FOR THE UNITED STATES IN OPPOSITION**

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## **OPINIONS BELOW**

The opinion of the circuit court of appeals (R. 42-48) is reported in 150 F. 2d 504. The district court did not write an opinion.

## **JURISDICTION**

The judgment sought to be reviewed was entered on July 13, 1945 (R. 48). The petition for a writ of certiorari was filed on October 11, 1945. The jurisdiction of this Court is invoked under Section 240 (a) of the Judicial Code, as amended by the Act of February 13, 1925.

**QUESTION PRESENTED**

Whether, after the National Housing Administrator has transferred a war housing project to the jurisdiction of the Navy Department for its permanent use and the Navy through its officer in charge is in open and notorious possession, a deed subsequently executed by the Federal Public Housing Commissioner for a portion of the same project is operative to transfer title to a purchaser.

**STATUTE INVOLVED**

The material portion of Section 4 of the Act of January 21, 1942, 56 Stat. 11, 12; 42 U. S. C., Supp. IV, sec. 1524, provides:

*Provided further*, That the [Federal Works] Administrator<sup>1</sup> may, in his discretion, upon the request of the Secretaries of War or Navy transfer to the jurisdiction of the War or Navy Departments such housing constructed under the provisions of this Act as may be considered to be permanently useful to the Army or Navy.

**STATEMENT**

Through Lanham Act condemnation proceedings brought on behalf of the Federal Works Agency, the United States on September 11, 1941,

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<sup>1</sup> By Section 4 of the Act of April 10, 1942, 56 Stat. 212, 213, 42 U. S. C., Supp. IV, sec. 1564, "Federal Works Administrator," with respect to housing, is deemed to refer to the National Housing Administrator.

acquired title to a tract of land of 415 acres for use as a defense housing project, known as Midway Park, in order to provide facilities for housing military and civilian personnel stationed at or connected with the Camp Lejeune Marine Training Base in North Carolina to which Midway Park was adjacent (R. 4, 42-43). By operation of Executive Order No. 9070, issued on February 24, 1942, which set up the National Housing Agency and consolidated the housing functions and properties of numerous other agencies therein, the Midway Park defense housing project as a Federal Works Agency property passed to the National Housing Agency (R. 43). On July 16, 1942, the National Housing Administrator, acting under the authority of the Act of January 21, 1942, *supra*, p. 2, by a letter to the Secretary of the Navy transferred the Midway Park defense housing project to the jurisdiction of the Navy Department for its permanent use, in view of the Secretary's determination that the project was considered as permanently useful to the Navy (R. 9, Exhibit A). This letter transferring jurisdiction from one federal agency to another was not recorded in the land records of the state or published in the Federal Register. However, at all times pertinent to the present controversy an officer of the Marine Corps, a service branch of the Navy, was in charge of Midway Park under the control of the commanding officer

of the Camp Lejeune Marine Training Base (R. 29, 32, 33, 34, 36, Exhibits Nos. 1, 4, 5, 6, and 9).

On May 18, 1943, about ten months after the National Housing Administrator had thus transferred the Midway Park defense housing project to the jurisdiction of the Navy Department and while a Marine Corps officer was in charge of its operation (R. 29, Exhibit No. 1, sec. 3), the Federal Public Housing Commissioner, the official in charge of one of the constituent units of the National Housing Agency, executed a deed purporting to convey to a purchaser, H. S. Gibbs, 6.16 acres of vacant land located "within" (R. 10, 11, Exhibit B) the Midway Park defense housing project, this being the acreage within the project that, according to the defense housing plans, had been reserved for commercial facilities (R. 10, Exhibit B). This deed restricted use of the land to providing such facilities (R. 13-14, Exhibit B). Gibbs in turn conveyed to H. Emmett Powell (R. 15, Exhibit C), and to Coastal Properties, Inc. (R. 16, Exhibit D). When these parties in January, 1944, sought to begin construction on this vacant acreage, the Navy forbade their bringing materials or equipment on the site and questioned the validity of their title (R. 32, 33, 34, 35, 36, Exhibits Nos. 4, 5, 6, 8 and 9).

The United States brought this action to quiet its title to the land involved, the amount of the

consideration paid for the deed being tendered into court (R. 3-8). Both sides moved for summary judgment (R. 24, 26). The district court held in favor of the United States and awarded petitioners the sum which the Government had paid into court (R. 37-39). The Circuit Court of Appeals for the Fourth Circuit affirmed (R. 42-48).

The circuit court of appeals held that when the National Housing Administrator transferred the property to the jurisdiction of the Navy for its permanent use, the National Housing Agency's "power \* \* \* to dispose of the property ceased to exist" (R. 47-48). The Act of Congress which authorized such transfer, said the court, "Obviously \* \* \* did not contemplate that the transferor thereafter would retain any control or power of disposition of the property. Such a retention of control or authority would be inconsistent with the permanent use of the area by the military or naval establishment" (R. 46-47). In upholding the validity of the National Housing Administrator's letter of transfer, the court said, "Congress did not require that such a transfer to the Navy should be recorded among the land records of the state or even published in the Federal Register. The failure to record or publish the transfer of jurisdiction did not invalidate it" (R. 47).



## ARGUMENT

1. Petitioners do not challenge the validity of the transfer of the project to the Navy Department except to assert that the letter of transfer should have been published in the Federal Register. This assertion is groundless because, as the court below held (R. 47), Congress did not impose any such requirement, and we know of no statute requiring such publication (cf. Pet. 11). Petitioners contend that despite such transfer the Federal Public Housing Commissioner retained the power to sell the property. Plainly, Congress did not intend any such result. As the court below stated (R. 46-47), "Such a retention of control or authority would be inconsistent with the permanent use of the area by the military or naval establishment."<sup>2</sup>

Petitioners emphasize the general policy of the Lanham Act to transfer national-defense housing projects to private interests and assert that the Navy Department has no power to convey. But, as Congress recognized in amending the Lanham Act (see Act of January 21, 1942, *supra*, p. 2) certain exceptional cases would exist where it

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<sup>2</sup> In explaining Section 4 of the Act of January 21, 1942, *supra*, p. 2, Senator Ellender, the sponsor of the legislation in the Senate, stated (87 Cong. Rec. 10029):

"As will be noted, the purpose of the modified amendment is to give the Administrator the right to permit the Navy Department and the War Department to obtain *title* to any defense-housing projects that can be used permanently by them. [Italics supplied.]

See also S. Rep. No. 918, 77th Cong., 1st sess., p. 4.

would be desirable for the interests of the Government to retain the project permanently for use of the Army and Navy rather than dispose of it to private enterprise. Such is this case. The power of sale is irrelevant concerning land which is to be used permanently by the Navy.

Petitioners' contention that many titles are or may be involved lacks merit. This case relates only to those instances where a project is transferred to the Army and Navy for their permanent use. We know of no similar instance where the Housing authorities have attempted to convey property already transferred. It cannot be assumed that such a mistake, which was made in 1943 under the pressure of the war emergency, will be repeated.

2. Petitioners' assertion that the sale resulted from a request by the Navy Department likewise ignores the fact that rather than being disposed of by sale, this property is to be permanently retained by the Navy. Moreover, the assertion is contrary to fact. The idea of a sale was not, as petitioners assert, initiated by the Marine Commandant (Pet. 4, 11). Rather, it was Mr. Montague, a National Housing Agency representative, who "advised" the procedure (R. 29) and the commanding officer made the request "in line with Mr. Montague's suggestion." Moreover, this request does not mention any proposed sale of the property but simply requests expedition of erection of commercial facilities. This was in accord with the

Congressional policy of cooperation between the Housing authorities and the Navy and War Departments. See Act of June 28, 1940, 54 Stat. 681, secs. 201-203, 205, 42 U. S. C., secs. 1501-1503, 1505. Thereafter, further proceedings were all taken by the National Housing Agency representatives and there is nothing to indicate either knowledge or agreement on the part of any Navy Department official in the sale to petitioners. On the contrary, as soon as petitioners sought to begin construction operations on this tract, the Navy promptly ordered the cessation of such activities (R. 32-35).

Even if it be assumed that the local Marine Commandant initiated the sale, any further presumption that such action was authorized by the Secretary of the Navy (cf. Pet. 4) is contradicted by the fact that the Secretary determined that this property was permanently useful to the Navy (R. 9) and that the Navy Department directed the cessation of building operations as soon as they were commenced upon the property (R. 33).

3. Petitioners do not seriously attempt (cf. Pet. 5, 12) to demonstrate any error in the holding of the circuit court of appeals that the provision of the Lanham Act providing that proceedings for the recovery of possession of housing projects shall be brought in state courts is inapplicable here (R. 45-46). Moreover, the fact is that the Navy Department was already in possession. The Midway Park project embraced some 415

acres, of which the 6.16 acres here involved were a part (R. 42). It was this entire area that was transferred to the Navy Department (R. 9). And the housing project was an integral part of the New River Marine Corps Training project. *John L. Roper Lumber Company v. United States*, 150 F. 2d, 329 (C. C. A. 4).<sup>3</sup> The correspondence in 1943 and 1944 also shows that this property was a part of the Marine base under control of the Marine officers and was not, as petitioners assert (Pet. 11), an "off base" site (R. 29-30, 32-37).

#### CONCLUSION

The decision below is correct. There is neither a conflict of decisions nor a question of general importance. It is therefore respectfully submitted that the petition should be denied.

J. HOWARD McGRATH,  
*Solicitor General.*

J. EDWARD WILLIAMS,  
*Acting Head, Lands Division.*

ROGER P. MARQUIS,

LAWRENCE VOLD,

WALTER J. CUMMINGS, Jr.,  
*Attorneys.*

NOVEMBER 1945.

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<sup>3</sup> This case which was submitted to the circuit court of appeals on the same day as the instant case was an appeal by one of the former owners from a judgment determining the compensation to be paid upon the condemnation of land for Midway Park. The court there affirmed a jury's finding that the housing project was a part of the larger Marine base project within the meaning of the doctrine of *United States v. Miller*, 317 U. S. 369, 376-377, 379.